IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH;

AT HYDERABAD

PRESENT:

THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION Nos. 26285, 26288,26289,26471,26473, 26481 OF 2005

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DATED 16TH MARCH, 2006.

Between

WP.No.26285 of 2005:

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Dindi Venkat Rao ….petitioner

And

Agent to Government (Dist Collector)

Kakinada, East Godavari District and ors. …..Respondents.

WP.No.26288 of 2005:

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Dindi Venkat Rao ….petitioner

And

Agent to Government (Dist Collector)

Kakinada, East Godavari District and ors. …..Respondents.

WP.No.26289 of 2005:

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Jajula Krishna Murthy ….petitioner

And

Agent to Government (Dist Collector)

Kakinada, East Godavari District and ors. …..Respondents.

WP.No.26285 of 2005:

Dindi Venkat Rao ….petitioner

And

Agent to Government (Dist Collector)

Kakinada, East Godavari District and ors. …..Respondents.

WP.No.26471 of 2005:

Jajula Venkataramana ….petitioner

And

Agent to Government (Dist Collector)

Kakinada, East Godavari District and ors. …..Respondents.

WP.No.26473 of 2005:

Jajula Phani Atchuta Govinda Babu ….petitioner

And

Agent to Government (Dist Collector)

Kakinada, East Godavari District and ors. …..Respondents.

WP.No.26481of 2005:

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Kurudu Subbarao ….petitioner

And

Agent to Government (Dist Collector)

Kakinada, East Godavari District and ors. …..Respondents.

HONOURABLE SRI JUSTICE R. SUBHASH REDDY

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COMMON ORDER:

In all these writ petitions, on similar set of facts, common questions of law arise for consideration; as such, they are disposed of by this common order.

In all these writ petitions, the petitioners have questioned the orders passed by the first respondent, District Collector-Agent to Government, in civil miscellaneous petitions filed by them in the suits for grant of perpetual injunction orders.

The petitioners herein have filed suits seeking perpetual injunction orders against the private respondents 2 to 5 herein. As much as the lands are situated in the notified scheduled areas, as such, they have filed suits before the Agent to Government. Pending disposal of the said suits, the petitioners have filed miscellaneous petitions for grant of temporary injunction orders. In the said applications, the learned Agent to Government passed the impugned orders, without deciding the applications on merits, driving them to the Court of Additional Agent to Government & Project Officer, ITDA, Rampachodavaram. The said orders are passed on the premise that the issues involved in the suits attract AP Scheduled Areas Land Transfer Regulation 1 of 1959, as amended by AP Scheduled Areas Land Transfer Regulation 1 of 1970.

In these writ petitions, it is to be noted, that the petitioners have filed civil suits before the Agent to Government under the AP Agency Rules, 1924. It is the case of the petitioners that respondents 2 to 5/private parties are interfering with their possession without any authority of law and jurisdiction. Having regard to the nature of suits, it cannot be said that the provisions of AP Scheduled Areas Land Transfer Regulation 1 of 1959 will come into picture. These are not the cases either suo-motu or on applications filed by any transferor, pleading eviction of the petitioners under the Land Transfer Regulation. The provisions of the Land Transfer Regulation framed under AP Scheduled Areas Land Transfer Regulation,1 of 1959, as amended by AP Scheduled Areas Land Transfer Regulation 1 of 1970, will come into picture only in cases of transfer of the land in favour of any individual in contravention of the Regulation framed. Merely because, there is dispute between tribal and non-tribal, every case need not be tried by the authority under the Regulation 1 of 1959. As per AP Agency Rules, 1924, which are framed in exercise of powers under Section 6 of the Scheduled District Act, 1874, the Agent to Government is the competent authority to decide the suits if the value of the suit exceeds Rs.5,000/-. In that view of the matter, the impugned orders passed by the first respondent-Agent to Government, driving the petitioners to the authority under the Land Transfer Regulation is without any valid reason. In that view of the matter, in all the writ petitions, orders under challenge are set aside and the first respondent-Agent to Government is directed to consider the petitions/suits filed by the petitioners, in accordance with the AP Agency Rules,1924 by passing appropriate orders.

The Writ Petitions are accordingly allowed to the extent indicated above. No order as to costs.

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JUSTICE R. SUBHASH REDDY

DATED: 16-03-2006

Msnr